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Federal Communications Commission
1919 M. Street, NW.
Washington, DC 20554

FCC MAIL BRANCH
Federal Communications Commission
Office of the Secretary

**RE: The matter of the Telephone Consumer Protection Act of 1991
Docket No. 92-90**

Following are my comments regarding the proposed rule making:

1. Auto Dialers

A clarification is necessary to include the practice of dialing a residential phone and "hanging-up" without speaking to the resident. This occurs with computer-aided systems commonly referred to within the telemarketing community as "Predictive Dialing". There is a live operator, and the purpose of the predictive dialer is to always have a resident ready with whom the telemarketer can speak. The nuisance dimension of this computer aided dialing is that the resident is brought to their ringing telephone and the deliberate practice is that in up to 20% of the phones answered by a resident, there is no telemarketer ready to speak with the resident. It can be detected by the resident when they answer their phone and no one is there to speak with them. And, of course, they do not know who it is. It is the equivalent of ringing someone's doorbell and then running away.

This predictive dialing technology is used extensively by telemarketers throughout the country and is growing. The advantage to the telemarketer is that they can speak with more households by having the computer "pre-dial" the resident.

It is estimated that around 5 million sales purpose telemarketing calls are made daily with predictive dialers and, if so, then the deliberate hang-ups would be around 1,000,000 daily. This is a major nuisance.

Please refer to the attached 4 page document that elaborates this issue in more detail.

No. of Pages rec'd 0716
List A B C D E

2. Database Options

The required use of the Direct Marketing Association's Telephone Preference Service is a ready and viable solution. The processes and avenues for consumers to get on the TPS are established and proven.

All other options seem to take longer to implement and cost more money.

The companies who do telemarketing (either with in-house or outside agencies) should be required to assure this list is deleted from all prospecting (getting new customers) telemarketing programs. There is no need to reinvent an existing wheel that works.

3. Established Business Relationship

If a person or entity has previously done business with a company in any of its dimensions, that should be a prior relationship.

In summary, the telephone is a growing medium through which more people are doing business. We all want it to be done correctly. If we do business on the telephone, we want it to be with a trained professional who is sensitive to the customer and willing to subordinate their immediate needs for a proper long-term relationship with the customer. This means:

- A. We do not ring a residential telephone and plan to not speak (hang-up) with 20% of those who answer. We need to stop Predictive Dialing.
- B. We do not want to call residents who do not want us to call them. The Telephone Preference Service is ready to be "required".
- C. Business relationships are valuable and once business has started, then it should be allowed to expand its relationship if the customer is willing.

Thank you for considering these comments.

Sincerely,



Dwaine L. Canova
Chairman/CEO

DC/mlf

attachment

PREDICTIVE DIALING: OBSERVATIONS AND CONCERNS

Is it time to explore the impact of predictive dialing on the U.S. Consumer? Is it time to explore what the impact of an expose' on our condoning and encouraging "nuisance calls" would be on the reputation of our industry?

Why have we embraced and exalted predictive dialing as an outbound tool? The most prominent answer is that it improves the productivity of the TSR. The TSR speaks with more people and creates more sales each hour they are on the telephone. No one can legitimately be against increasing productivity.

The key issue is . . . at what cost do we ignore the very negative side effects of the increased productivity created by predictive dialing? The primary negative is "no-ops", "nuisance calls" or "overdials" . . . these are the calls answered by the consumer for which there is no TSR ready to speak with them. The providers of predictive dialing use the term "abandonment rate", which is the same term used for unanswered calls within an inbound center. They are not the same and could be considered opposites. From the consumers perspective, when this occurs, they are interrupted to respond to a ringing phone and when they do respond, there is no one there.

As soon as consumers via the media and/or legislative activity understand who is causing this. . . and they will designate a villain . . . we are in for another blot on our reputation. Have we forgotten that the single major issue of legislation was another form of computer dialing with no immediate live voices . . . ADRMPS? Maybe this will be the straw that breaks the camel's back. It could be the issue that coalesces the legislators to "do something, even if it is overkill". And as soon as the public learns about these "nuisance calls", then every time there is "no one there", they'll say, "another one of those (blank) (blank) telemarketers."

How bad is the "nuisance", "overdial" problem? Some users of predictive dialers do not stipulate a maximum percentage of "nuisance calls". The users who do stipulate maximums have percentages ranging from 1% to 10% with most in the 5% range. Is even a single "nuisance call" acceptable as a deliberate process? Of course not! This problem is further amplified by the fact that these "statistics" are not monitored or properly confirmed. There are experiences that lead us to believe that the percentages of "nuisance calls" allowed in daily practice are much higher than 10% -- maybe up to 20%.

There is reason to be concerned. Even if "nuisance calls" are only 1%, then each evening when we reach the first 1,000,000 residents with predictive dialers we intrusively inconvenience 10,000 people. If its 10%, then we inconvenience 100,000 people and so on. How many do we want to offend each evening? This is not unlike having a prankster ring a doorbell and then runaway. What will this industry accept as a reasonably defensible number? Shouldn't we seriously consider '0'? We must get our collective head out of the sand and confront the issue.

Some of our industry leaders have become satisfied by solutions to the "no ops" problem such as:

1. "If a household is "nuisanced" once, that name is taken off line and it won't happen again."

That means it won't happen again for that campaign, but it also means that we still have at least 5% and probably 15% to 20% "nuisance calls" still occurring the first time.

2. "The dialer can be adjusted to a much lower speed."

That means you'll still create some "nuisance calls", probably 2-4% and the productivity increases expected will not happen.

There are alternatives to increasing productivity without "nuisance calls" and without eliminating the advantages of supporting the TSR with computer power. There are computer supported dialing processes that can increase productivity without getting a consumer on the line before we have someone ready to talk to them. The providers of these systems have been around for some time and others will evolve if the opportunity exists.

Our industry has come too far to ignore this issue. We have come too far to not be diligent in our pursuit of excellence. We have come too far not to embrace alternatives to eliminate this problem.

We do need improved TSR productivity and appropriate computer support of the telephone sales process. Let's pursue the alternatives with the same fervor as we have embraced predictive dialing and nourish their maturity.

The following simplified chart is a beginning point and covers the essential performance/cost consideration categories. The numbers are generally accepted for conversation, but there needs to be a definitive understanding and confirmation of these statistics:

<u>Issue</u>	<u>Predictive Dialers</u>	<u>The Alternatives</u>
1. "Nuisance" calls (When there are only a few TSRs on a single campaign, the "nuisance calls" can be even higher than 20%)	1% - 20%	0
2. Productivity increases	15% - 40%	15% - 25%
3. Cost/work station	\$5,000-\$6,500	\$3,000-\$4,500
4. List Penetration (Reaches)		
A. Small file	60 - 75%	70 - 85%
B. Large file	65 - 80%	70 - 85%

The alternatives are worth considering. Why have these alternatives not been as successful to this point? First, our rapid growth and the need for increased productivity have been given top priority. Secondly, the sales efforts of the predictive dialing providers have been intense and extensive. They began with claims of 300% increases in productivity, then reduced them to 100% increases and now acknowledge that a good user of their systems in a properly managed "nuisance calls" environment will average a 30-35% increase in productivity over a manual environment.

Have residential telemarketers been progressively lead into accepting a process that has less relative benefit than originally perceived? Are the very negative side-effects ("nuisance calls") worth a 10% increase in productivity?

There may be products or services where the last 5-10% increment of telemarketing productivity provided by predictive dialing over the alternatives is necessary to keep them alive. If this is the case, should we condone and endorse a behavior at the risk of losing the businesses and providing the services that are not as marginal?

Also, imagine if you will, the leader of any company sitting before a legislative committee and being asked this question:

"Is it true that you, on a nightly basis, ring the telephone in thousands of households and in 5% to 20% of those homes when the resident answers the phone, you have no one ready to speak with them? you hang up on them after they have interrupted their other activities to answer their phone, which you have been ringing? and this is a deliberate practice?"

The answers are "yes" for anyone using or hiring the use of predictive dialing in their outbound work. It would be very embarrassing to sit next to this person as they are bombarded with questions of this type. It would be uncomfortable to endure their hard look as they ask, "What have my telemarketers been doing to me?"

Consider these questions: Is our feverish effort to employ more predictive dialing in concert with our own sense of what is right for the residents of our country? Second question: Are we not subjecting ourselves to a charge of being two-faced as we work hard at legislation saying, "we can manage ourselves"?

Maybe there is nothing wrong with predictive dialing? If there isn't, then let's take the entire issue public and offer it as one of the examples of what we have creatively done as our part to improve the telemarketing process. If there is something wrong, then let's clean it up . . . ourselves . . . before it costs us too much!!!